

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

KRISTEN PETRICK, et al.,  
Plaintiffs,  
v.  
STARS BAY AREA, INC.,  
Defendant.

Case No. 19-cv-03105-VKD

**ORDER DENYING MOTION TO  
DISMISS AS MOOT**

Re: Dkt. No. 17

Before the Court is defendant Stars Bay Area, Inc.’s (“Stars Bay Area”) motion to dismiss plaintiff Kristen Petrick’s complaint pursuant to Rules 9(b) and 12(b)(6) of the Federal Rules of Civil Procedure. Dkt. No. 17. On December 11, 2020, in lieu of filing an opposition to Stars Bay Area’s motion and before Stars Bay Area filed a responsive pleading to the original complaint, Ms. Petrick filed an amended complaint. Dkt. No. 27.

A plaintiff may amend its pleading once as a matter of course within 21 days of service of a motion under Rule 12(b). Fed. R. Civ. P. 15(a).<sup>1</sup> An amended pleading generally supersedes an original pleading. *Hal Roach Studios, Inc. v. Richard Feiner and Co., Inc.*, 896 F.3d 1542, 1546 (9th Cir. 1989).

Accordingly, the Court denies Stars Bay Area’s motion to dismiss as moot, and VACATES the hearing scheduled for January 5, 2021.

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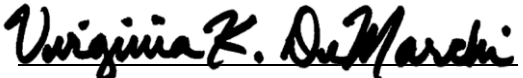
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<sup>1</sup> A Rule 12 motion is not a “responsive pleading.” See *CRST Van Expedited, Inc. v. Werner Enters., Inc.*, 479 F.3d 1099, 1104 n.3 (9th Cir. 2007).

United States District Court  
Northern District of California

**IT IS SO ORDERED.**

Dated: December 14, 2020

  
VIRGINIA K. DEMARCHI  
United States Magistrate Judge